

Image

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of


Tadashi Takano

App. No.: 09/681430
Filed: April 3, 2001
Conf. No.: 4775
Title: ROTATING ELECTRICAL
MACHINE
Examiner: L. Pham
Art Unit: 2834

Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

I hereby certify that this correspondence and all marked attachments are being mailed via first class mail to the United States Patent Office on:

January 24, 2004


Ernest A. Beutler
Reg. No. 19901

PETITION UNDER 37 CFR 1.181(3)

Dear Sir:

Applicant hereby petitions the Commissioner to exercise his supervisory authority and direct the Examiner to withdraw the rejection dated November 4, 2003, which reopened the prosecution of this application which was under Appeal and Appellants Brief had been filed without entering two amendments made after the final rejection and had apparently not been entered as the case was under Final Rejection, enter those two amendments and then, if the Examiner is so inclined, to issue any new rejection he desires. This is also to resubmit the Petition filed with the Examining Unit via fax on November 10, 2003, a copy of which is attached, and which has not been responded to.

The status of the case is as follows:

This case was on appeal and Appellant's Brief was filed on July 3, 2003. Then some four months later, the Examiner has reopened prosecution but apparently based on the claims as previously finally rejected even though there was a previously filed amendment, filed March 22, 2003. That was denied entry because it allegedly raised new issues.

In addition a proposed amendment curing only the 112 rejections was filed with the brief, but from the nature of the new rejection, it also has apparently not been entered.

If the Examiner is going to be permitted to reopen prosecution, and applicant does not object to this, the amendment filed March 22, 2003 should be entered to avoid further dragging out of the prosecution. The Examiner should not be permitted to pick and choose what form the claims will be acted on. If the final rejection is withdrawn, applicants amendment of March 22, 2003 must be entered as a matter of right.

Also applicant strongly objects to the failure to respond to the Petition filed November 10, 2003 promptly. Applicant's attorney also faxed a copy of that earlier petition to the Group Director and knows that it was received there because the undersigned received a phone call from the Director's secretary and at that time asked her to see that the Director saw the filing. Apparently this request was unheeded. This is very unfair because the time for the shortened response date was running and now applicant has had to file a second Notice of Appeal in this case to avoid either late fees or abandonment.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Ernest A. Beutler', with a large, sweeping flourish extending to the right.

Ernest A. Beutler
Reg. No. 19901

Phone (949) 717-4821
Pacific Time



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I hereby certify that this correspondence and all
marked attachments are being deposited with
the United States Patent Office via fax to
(703) 872-9319 and (703) 308- 7725 on:

November 10, 2003


Ernest A. Beutler
Reg. No. 19901

PETITION FOR SUPERVISORY REVIEW AND SUPPLEMENTAL OFFICE ACTION

Dear Sir:

Applicant hereby requests the review of this case by a Group Director.

This case was on appeal and Appellant's Brief was filed on July 3, 2003. Now some four months later, the Examiner has reopened prosecution but apparently based on the claims as previously finally rejected even though there was a previously filed amendment, filed March 22, 2003. That was denied entry because it allegedly raised new issues. In addition a proposed amendment curing only the 112 rejections was filed with the brief, but from the nature of the new rejection, it also has apparently not been entered. If the Examiner is going to be permitted to reopen prosecution, the amendment filed March 22, 2003 should be entered to avoid further dragging out of the prosecution. Applicant does not object to the reopening of the prosecution, but the Examiner can not pick and choose what form the claims will be acted on. If the final rejection is withdrawn, applicants amendment of March 22, 2003 must be entered as a matter of right.

Also it is most respectfully submitted that the Examiner's rejections now made still do not point out in any real detail how the references meet the rejected claims. That is the "related rotary machine" of even the broadest claim 1 is not met by the position sensor of the newly cited reference and that position sensor clearly is not a "hydraulic pump as set out in claim 26.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Ernest A. Beutler", written over a horizontal line.

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